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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN RE CATHODE RAY TUBE
(CRT) ANTITRUST
LITIGATION

This Document Relates To All Actions

No. CV-07-5944-SC
MDL No. 1917

State of Illinois' Motion to Intervene

Date: May 4, 2011
Time: 2:00 PM
Court: Two Embarcadero Center, Ste. 1500
Judge: Hon. Charles A. Legge (Ret.)

NOTICE OF MOTION AND MOTION TO INTERVENE

PLEASE TAKE NOTICE that on May 4, 2011, at 2:00 pm or as soon thereafter as the matter may be heard, the State of Illinois, through its Attorney General, will present this Motion at Two Embarcadero Center, Ste. 1500, San Francisco, California, before the Honorable Charles A. Legge (Ret.).

This motion is brought pursuant to F.R.C.P. 24(a) and (b) for an order granting the State of Illinois permission to intervene in this action for the limited purpose of opposing the Motion for Preliminary Approval of Class Action Settlement with Defendant Chunghwa Picture Tubes, Ltd. to the extent it purports to release damages claims of Illinois indirect purchasers.

MEMORANDUM OF POINTS AND AUTHORITIES

I. Facts

The Illinois Attorney General is investigating whether certain of the defendants in this action have violated the Illinois Antitrust Act.¹ The Illinois Antitrust Act provides that only the Illinois Attorney General may bring an action for damages on behalf of indirect purchasers.² As a result, the private class plaintiffs cannot adequately represent the antitrust damages claims of Illinois indirect purchasers. Nevertheless, the indirect-purchaser plaintiffs (“IPPs”) now ask this Court to approve a settlement which purports to release those claims.

II. Argument

The State of Illinois seeks to intervene to oppose the proposed settlement between the IPPs and Chunghwa Picture Tubes, Ltd. to the extent the settlement purports to release damages claims of Illinois indirect purchasers. This Court should allow Illinois to intervene (1) as a matter of right under Federal Rule of Civil Procedure 24(a), and (2) permissively under Rule 24(b).

Rule 24(a) allows a person to intervene in an action as a matter of right.³ In the Ninth Circuit, a third party may intervene as of right by showing “timeliness; an interest relating to the subject of the action; practical impairment of the party’s ability to protect that interest; and inadequate representation by the parties to the suit.”⁴

¹ 740 Ill. Comp. Stat. § 10/1 *et seq.*

² 740 Ill. Comp. Stat. § 10/7(2).

³ F.R.C.P. 24(a).

⁴ *Idaho Farm Bureau Fed'n v. Babbitt*, 58 F.3d 1392, 1397 (9th Cir. 1995); see also *Sagebrush Rebellion, Inc. v. Watt*, 713 F.2d 525, 527 (9th Cir. 1983); *LG Electronics Inc. v. Q-ility Computer Inc.*, 211 F.R.D. 360, 366 (N.D. Cal. 2002). *LG Elecs. Inc. v. Qlity Computer Inc.*, 211 F.R.D. 360, 366 (N.D. Cal. 2002).

1 The State of Illinois meets the criteria for intervention as a matter of right. Illinois raised its
 2 objections and filed its motion to intervene at the earliest practical time after learning that the
 3 private plaintiffs were seeking to release the indirect-purchaser claims of Illinois' residents.
 4 The Illinois Attorney General is designated by the state legislature as the only party authorized
 5 to pursue and recover indirect-purchaser damages on behalf of the state's residents. The private
 6 plaintiffs lack standing to pursue such claims as a matter of law. Finally, releasing all of Illinois
 7 citizens' indirect-purchaser claims could deny them their lawful recovery for antitrust damages.
 8

9 This Court should permit Illinois to intervene under Rule 24(b), as well. Rule 24(b)
 10 permits a person to intervene in an action who "has a claim or defense that shares with the main
 11 action a common question of law or fact."⁵ Generally, permissive intervention requires: (1) an
 12 independent ground for jurisdiction; (2) a timely motion; and (3) a common question of law or
 13 fact between the person's claim or defense and the main action.⁶

14 The State of Illinois meets the criteria for permissive intervention. This court has
 15 jurisdiction over the class settlement. Illinois raised its objections and filed its motion to
 16 intervene at the earliest practical time after learning that the private plaintiffs were seeking to
 17 settle the indirect purchaser claims of Illinois' citizens. The State seeks to intervene as the
 18 exclusive lawful representative for the indirect-purchaser damages claims and to protect those
 19 claims for its citizens, as intended by the state legislature.

20 **III. Conclusion**

21 The State of Illinois asks this Court to grant it leave to intervene in this action for the
 22 purpose of opposing the proposed settlement class and to ensure that the rights of Illinois
 23 residents are adequately protected.

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 25 ⁵ F.R.C.P. 24(b)(1)(B).

26 ⁶ *Beckman Indus., Inc. v. Int'l Ins. Co.*, 966 F.2d 470, 473 (9th Cir. 1992).

1 DATED: April 27, 2011

2 Respectfully submitted,

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4 Attorney General of Illinois

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